

1 BARRY J. PORTMAN
Federal Public Defender
2 REBECCA SULLIVAN SILBERT
Assistant Federal Public Defender
3 555 - 12th Street
Suite 650
4 Oakland, CA 94607-3627
Telephone: (510) 637-3500
5
Counsel for Defendant MARTINEZ
6
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,)	No. CR-07-00793 CW
)	No. CR-00-40120 CW
12 Plaintiff,)	
)	STIPULATION AND ORDER
13 vs.)	CONTINUING CASE AND EXCLUDING
)	TIME
14 JOSE JESUS MARTINEZ,)	
)	Current Date: March 5, 2008
15 Defendant.)	Requested Date: March 26, 2008
_____)	

16

17 This matter is set for status on March 5, 2008. Mr. Martinez is charged with multiple
18 counts of possession of narcotics for sale, and one count of possession of ammunition. He is in
19 custody. Although the government has provided much of the discovery to the defense, some
20 discovery is not yet available. Specifically, government does not yet have all of the lab reports,
21 and it does not yet have the DVDs of the alleged transactions between Mr. Martinez and the
22 government. The government is aware of the discovery gaps and is working to provide the
23 remaining discovery as quickly as possible. Additionally, a plea agreement has been offered by
24 the government, and the parties believe that additional time will further negotiations of a pre-trial
25 disposition.

26 Consequently, the parties jointly stipulate and request that this matter be continued to

1 Wednesday, March 26 at 2:00 p.m., so that the defense has an opportunity to review all of the
 2 discovery before the next court appearance, and that the parties may continue plea negotiations.

3 In addition, the parties stipulate and request that time be excluded between March 5,
 4 2008 and March 26, 2008 for effective preparation of counsel, so that the defense can receive
 5 and review all of the discovery. The parties agree that the ends of justice served by the
 6 continuance requested herein outweigh the best interest of the public and the defendant in a
 7 speedy trial, because the failure to grant the continuance would deny counsel for the defendant
 8 the reasonable time necessary for effective preparation, taking into account the exercise of due
 9 diligence. Time should therefore be excluded pursuant to 18 U.S.C. §§ 3161(h)(1)(F), and §
 10 3161(h)(8)(A) and (B)(iv).

11
 12 02/25/08

13 Date

/s/

Rebecca Sullivan Silbert
 Counsel for defendant Jose Jesus Martinez

14
 15
 16 02/25/08

17 Date

/s/

Daniel Kaleba
 Assistant United States Attorney

18
 19 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
 20 “conformed” signature (/S/) within this e-filed document.

21 **ORDER**
 22

23 Based on the reasons provided in the stipulation of the parties above, the Court continues
 24 this matter to March 26, 2008 at 2:00 p.m. The Court further finds that the ends of justice served
 25 by the continuance requested herein outweigh the best interest of the public and the defendant in
 26

1 a speedy trial because the failure to grant the continuance would deny the counsel for the
2 defendant the reasonable time necessary for effective preparation, taking into account the
3 exercise of due diligence. The Court makes this finding because complete discovery has not yet
4 been provided to the defense and because of the ongoing discussions between the parties.

5 Based on these findings, IT IS HEREBY ORDERED THAT the above-captioned matter
6 is continued to March 26, 2008 at 2:00 p.m., and that time is excluded from March 5, 2008 to
7 March 26, 2008 pursuant to 18 U.S.C. §§3161(h)(1)(F) and (h)(8)(A) and (B)(iv).

8
9 IT IS SO ORDERED.

10
11 3/3/08

12 _____
13 Date



Honorable Claudia Wilken
Judge, United States District Court
Northern District of California